OCT 1 - 1973

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-187

KEWANEE OIL COMPANY, *Plaintiff-Petitioner*

v.

BICRON CORPORATION ET AL., *Defendants-Respondents*

MOTION BY THE BAR ASSOCIATION OF THE DISTRICT OF COLUMBIA FOR LEAVE TO FILE A BRIEF AMICUS CURIAE IN SUPPORT OF THE PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT, AND BRIEF AMICUS CURIAE

AUSTIN F. CANFIELD, JR., President
Bar Association of the District
of Columbia
4400 Jenifer Street, N. W.
Washington, D. C. 20015

MAURICE H. KLITZMAN, Chairman
Patent, Trademark & Copyright
Section
1601 N. Kent Street, Suite 1003
Arlington, Virginia 22209

PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-187

KEWANEE OIL COMPANY, *Plaintiff-Petitioner*

v.

BICRON CORPORATION ET AL., *Defendants-Respondents*

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

The Bar Association of the District of Columbia respectfully moves for leave to file the attached brief amicus curiae in the above-entitled case. Counsel for petitioner has consented to the filing of this brief. Counsel for respondents has not consented but does not object.

The Bar Association of the District of Columbia has a vital interest in this case because it has an impact on the business practices of the clients served by its 4,600 members. In addition to many of its members being located throughout the country, many of the clients represented are spread not only throughout the United

States, but in many foreign countries as well. Thus, although the Bar Asociation of the District of Columbia is a local bar, it is international in nature. The decision by the Court of Appeals of the Sixth Circuit in the case at bar being in conflict with the other circuits, makes it impossible to adequately advise and counsel these clients.

Accordingly, the Association of the District of Columbia requests that this court grant it leave to file the attached brief amicus curiae.

Respectfully submitted,

AUSTIN F. CANFIELD, JR., President
Bar Association of the District
of Columbia
4400 Jenifer Street, N. W.
Washington, D. C. 20015

MAURICE H. KLITZMAN, Chairman
Patent, Trademark & Copyright
Section
1601 N. Kent Street, Suite 1003
Arlington, Virginia 22209

IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-187

KEWANEE OIL COMPANY, *Plaintiff-Petitioner*

v.

BICRON CORPORATION ET AL., *Defendants-Respondents*

BRIEF AMICUS CURIAE

NATURE AND INTEREST OF AMICUS CURIAE

The Bar Association of the District of Columbia is vitally interested in this case because it has an impact on the business practices of the clients served by its 4,600 members. In addition to many of its members being located throughout the country, many of the clients represented are spread not only throughout the United States, but in many foreign countries. Thus, although the Bar Association of the District of Columbia is a local bar, it is international in nature. The decision by the Court of Appeals of the Sixth Circuit in the case at bar being in conflict with the other circuits makes it impossible for the members of this Association to adequately advise and counsel these clients.

The parties in this case will be addressing the question whether the Patent Act of 1952 pre-empts and makes ineffectual state protection at common law of trade secrets which have been used commercially for more than one year with specific relationship to breach of contract or confidential relationsnip as it may be presented by the factual background of the case at bar.

Movant, on the other hand, is concerned with the effect of the lower court decision on;

(1) all employment contracts,

(2) the piracy of trade secrets, generally and

(3) the present practice of licensing of trade secrets and know-how not only on a national, but on an international basis as well.

REASONS FOR GRANTING THE WRIT

Movant is filing this brief because of the important national policy considerations involved and to inform the Supreme Court of its vital concern.

Movant is aware of the policy of the Supreme Court with respect to the filing of amicus curiae briefs. It is in recognition of this policy, and to not encumber the record by repeating reasons stated by others for granting the writ, that movant endorses the briefs of both the American Bar Association and the American Patent Law Association in their support of the Petition for Writ of Certiorari. In endorsing the above-referenced amicus briefs, this Association believes the writ should be granted because:

1. The vitality of all employment contracts with employees dealing with the protection of an employer's trade secrets are in doubt,

2. The decision encourages employees to establish competing businesses through piracy of their former employer's trade secrets developed at the employer's considerable expense, and

3. The ability to continue the present practice of licensing trade secrets and know-how is in doubt.

CONCLUSION

For the reasons stated above, amicus curiae urges that the petition for certiorari be granted.

Respectfully submitted,

AUSTIN F. CANFIELD, JR., President
Bar Association of the District of Columbia
4400 Jenifer Street, N. W.
Washington, D. C. 20015

MAURICE H. KLITZMAN, Chairman
Patent, Trademark & Copyright Section
1601 N. Kent Street, Suite 1003
Arlington, Virginia 22209